



# UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,697	07/14/2003	Mary Wonmon Chin	29250-001055/US	3734
7590	10/27/2005		EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			CUMMING, WILLIAM D	
P.O. Box 8910			ART UNIT	PAPER NUMBER
Reston, VA 20195			2683	
DATE MAILED: 10/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/617,697	CHIN & ROLLENDER	
	<b>Examiner</b>	<b>Art Unit</b>	
	WILLIAM D. CUMMING	2683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 19 August 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-34 is/are pending in the application.  
 4a) Of the above claim(s) 1-16, 27-32 and 34 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 17-26 and 33 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

1. Applicant's election with traverse of the restriction in the reply filed on August 19, 2005 is acknowledged. The traversal is on the ground(s) that a thorough search for the subject matter of any one group would encompass a search of the remaining claims without serious burden. This is not found persuasive because MPEP §803 clearly states "*search and examination of an entire application*", examination of five different inventions and possibly writing five different rejections is *prima fascia* a serious burden upon the examiner. Also the examiner's workload with other pending applications can be also taken into consideration. Applicants' attorney has failed to provide any evidence and also failed to file an express admission that the claimed inventions would have been obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. *In re Lee*, 199 USPQ 108.

2. The requirement is still deemed proper and is therefore made FINAL.

3. Claims 1-16, 27-32, and 34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 19, 2005.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 17-26 and 33 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Maupin, et al** (both patents)

**Maupin, et al** disclose a method of performing an emergency call back (“*When establishing an emergency call connection towards a Public Safety Answering Point (PSAP) terminal for a mobile subscriber, instead of transmitting the Mobile Station Integrated Service Directory Number (MSISDN) assigned to the mobile station, a directory number assigned to the serving mobile switching center/visitor location register (MSC/VLR) is transmitted as the Calling Party Number. The MSISDN number is stored into the Generic Address Parameter (GAP) within the transmitted Initial Address Message (IAM) signal. When the PSAP attempts to call back the mobile station in response to a disconnection of the original emergency call connection, the PSAP transmits another IAM signal with the received MSC directory number as the Called Party Number. Once the setup signal is routed to the serving MSC/VLR, an application module within the serving MSC/VLR extracts the MSISDN from the GAP to call back the proper mobile station.*”) with a mobile station (figure 3, #30), comprising: sending a call back request (“*Even though the above TLDN solution alleviates the delays*

*mandated by the handling of incoming calls within a mobile telecommunications system, there still exists certain undesirable system limitations. Because the TLDN list 150 contains a limited number of directory numbers, the numbers have to be recycled once they are released by a particular emergency call. In order to determine when the assigned TLDN number can be reused, the serving MSC/VLR 40 marks the assigned numbers as released after a certain period of time. For example, forty-five minutes after a particular TLDN number has been assigned to the mobile station 30, the assigned TLDN number is released and the data within the register (R) 140 correlating the assigned TLDN with the mobile station 30 are deleted. As a result, if a call back request from the PSAP 110 is received after the assigned TLDN has already been released, the call back request fails. Moreover, if the number of emergency calls ever exceeds the number of available TLDNs in the list 130, subsequently received emergency call setup requests have to be processed without assigning TLDNs. Alternatively, the serving MSC/VLR 40 has to overwrite some of the previously assigned TLDNs with the subsequently received call setup requests using a recycling mechanism such as first-in-first-out (FIFO). ") to a call register, the call back request requesting that a mobile switching center (#40), serving the mobile station (30), establish a call between the mobile station (#30) and a public service answering point (#110).*

***Response to Amendment*****6. Updated Lists of Exceptions to the Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence**

The United States Patent and Trademark Office (Office) requires most patent related correspondence to be: a) faxed to the Central FAX number (571-273-8300), b) hand carried or delivered to the Customer Service Window (located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), c) mailed to the mailing address set forth in 37 CFR 1.1 (e.g., P.O. Box 1450, Alexandria, VA 22313-1450), or d) transmitted to the Office using the Office's Electronic Filing System.

General "Centralized Delivery" Policy: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window unless an exception under List I of this notice applies, and facsimile transmissions must be sent to the Central FAX number (571-273-8300) unless an exception under List II of this notice applies. Exceptions to the general policy of "centralized delivery" generally involve situations where special handling of the patent related correspondence is available. All the current exceptions are listed in this notice. Correspondence which is not related to a specific patent or patent application, such as a question on policy, on employment, or other general inquiry, is not covered by this notice.

Updated Lists of Exceptions: This notice replaces all prior Office notices specifying a fax number or hand carry address for certain patent related correspondence. Five significant updates have occurred to the lists of exceptions since they were last published on July 12, 2005. The five updated items are as follows:

(1) the Office of Public Records exceptions at the end of Lists I and II have been added.

(2) the PCT Operations facsimile number for correspondence permitted to be filed by facsimile in international applications under List II, exception 1, has changed to 571-273-3201.

(3) the Office of Patent Publication facsimile number under List II, exception 2, has changed to 571-273-2885, and the local area telephone number to check on receipt of payments transmitted by facsimile under that exception has changed to 571-272-4200.

(4) the Assignment Branch facsimile number under List II, exception 5, has changed to 571-273-0140.

(5) the Central Reexamination Unit (CRU) facsimile number under List II, exception 6, has changed to 571-273-9900.

In addition to updating the five items above, this notice corrects an error in the information last published for List I, exception 11, to reflect that the Office of Enrollment and Discipline delivery location is in the Madison West building - not the Madison East building.

**List I – Exceptions for Certain Hand Carried Correspondence**

Current exceptions: Only the following types of correspondence may be delivered (hand-carried) to the specific location provided below instead of the Customer Service Window.

If correspondence listed below is carried to the Customer Service Window, the correspondence will be accepted and routed to the appropriate office.

1. Access Requests: Requests for access to patent application files may continue to be hand carried to the File Information Unit (FIU) in Room 2E04, 2900 Crystal Drive (South Tower), Arlington VA 22202. Requests for access to patent application files that are maintained in the Image File Wrapper system and that have not yet been published may also be hand carried to the Public Search Facility on the 1<sup>st</sup> floor of the Madison East building, 600 Dulany Street, Alexandria VA 22314.

2. Patent Term Extensions under 35 U.S.C. § 156: Patent term extension applications under 35 U.S.C. 156 (Hatch/Waxman) may be hand-carried to the Office of Patent Legal Administration (OPLA) in Room 7D85, 600 Dulany Street (Madison West building), Alexandria VA 22314. At the guard station in Madison West (near the elevators), the security guard should call the OPLA at either 571-272-7701 or 571-272-7746 for delivery assistance.

3. Assignments to be Recorded: Assignments may be hand-carried to the Office of Public Records Customer Service Window on the 2nd floor of the South Tower building, 2900 Crystal Drive, Arlington VA 22202.

4. Office of General Counsel: Correspondence for the Office of General Counsel may be hand-carried to the Office of General Counsel in Room 10C20, 600 Dulany Street (Madison East building), Alexandria VA 22314. At the guard station in Madison East (near the elevators), the security guard should call the Office of General Counsel at 571-272-7000 for delivery assistance.

5. Solicitor's Office: Correspondence for the Solicitor's Office may be hand-carried to the Solicitor's Office in Room 8C43-A, 600 Dulany Street (Madison West building), Alexandria VA 22314. At the guard station in Madison West (near the elevators), the security guard should call the Solicitor's Office at 571-272-9035 for delivery assistance.

6. Interference related correspondence: Correspondence relating to interferences may be hand-carried to the 1<sup>st</sup> floor lobby of Madison East building, 600 Dulany Street, Alexandria VA 22314, where a drop-off box for hand-carried documents to be filed with the Board of Patent Appeals and Interferences is located. Customers need to pass through the magnetometer and have the materials passed through the x-ray sensors before placing them in the drop-off box. The drop-off box is for Interference related correspondence ONLY. Boxes are not permitted in the drop-off box. Boxed materials should be hand-carried to Madison East, Room 9B55-A using the following procedures. At the first floor guard station in Madison East (near the elevators), the security guard should call the Board of Patent Appeals and Interferences at 571-272-9797 to obtain authorization to allow entry into the building for delivery to Room 9B55-A. Access to Room 9B55-A is available on business days from 8:30 a.m to 4:45 p.m. only. Documents/boxes hand-carried to the drop-off box or to Room 9B55-A after 4:45 p.m. (EST) will receive the next business day's filing date.

Customers desiring a stamped return receipt for their filing need to personally bring their filing and postcard to Room 9B55-A during the hours stated above, or leave the postcard with the filing (postcard must include correct postage mail stamp and the address where the postcard is to be mailed). The Board will stamp the filing date and mail the postcard to the customer.

7. Secrecy Order: Applications subject to a secrecy order pursuant to 35 U.S.C. 181, or which are national security classified, and correspondence related thereto, may be hand-carried to the Licensing and Review location. See 37 CFR §§ 5.1(c) and 5.2(c). The Licensing and Review location is: Technology Center 3600, Room 4B31, 501 Dulany Street (Knox building), Alexandria VA 22314. At the guard station in Knox (near the elevators), the security guard should call Licensing and Review at 571-272-8203 for delivery assistance.

8. Expedited Foreign Filing License Petitions: Petitions for a foreign filing license pursuant to 37 CFR 5.12(b) for which expedited handling is requested and petitions for a retroactive license under 37 CFR 5.25, may be hand-carried to the drop box located at the guard station in the Knox building. Upon approaching the guard station, the delivery personnel should state their desire to drop off the request. Correspondence packages will be inspected/scanned before being placed in the drop box. All requests should identify a fax number, telephone number and mailing address. All responses to the request will be sent by fax, followed by a mailed copy. If a fax number is not available, a hardcopy will be mailed to the mailing address provided.

9. Petitions to Withdraw from Issue: Petitions to Withdraw from Issue may be hand carried to the Office of Petitions on the 7<sup>th</sup> floor of the Madison West building, 600 Dulany Street, Alexandria VA 22314. At the guard station in Madison West (near the elevators), the security guard should call the Office of Petitions at 571-272-3282 for delivery assistance. Hand carried papers will be accepted on business days between the hours of 8:30 a.m. until 3:45 p.m.

10. Documents requested by the Office of Patent Publication: Documents requested by the Office of Patent Publication may be hand carried to the Office of Patent Publication in Room 8A24, 2900 Crystal Drive (South Tower building), Arlington VA 22202, during business hours.

11. Office of Enrollment and Discipline (OED): Correspondence for the Office of Enrollment and Discipline may be hand carried to the receptionist at Room 8C43-B, 600 Dulany Street (Madison West building), Alexandria VA 22314. At the guard station in Madison West (near the elevators), the security guard should call the Office of Enrollment and Discipline at 571-272-4097 for delivery assistance.

12. Office of Finance: Refund requests, deposit account replenishments, and maintenance fee payments may be hand-carried to the Office of Finance receptionist in Suite 300, 2051 Jamieson Avenue (Carlyle Place building), Alexandria, VA 22314. Hand-carried correspondence will only be accepted, and not processed. Although the receptionist will not process any correspondence, if the correspondence is delivered with an itemized postcard, the receptionist will provide a delivery receipt by date stamping the postcard. Depending on whether the correspondence is a refund request, deposit account related (e.g., a deposit account replenishment), or maintenance fee

related (e.g., a maintenance fee payment), the correspondence should be placed in an envelope with REFUND, DEPOSIT ACCOUNT, or MAINTENANCE FEE written in dark ink across the envelope.

13. Office of Public Records: Requests for certified copies of Office records including patent and trademark copies, applications-as-filed, file wrappers and contents, and assignment records may be hand-carried to the Office of Public Records' Customer Service Window on the 2<sup>nd</sup> floor of the South Tower building, 2900 Crystal Drive, Arlington, VA 22202, during business hours.<sup>ii</sup>

List II - Exceptions for Certain Facsimile Transmitted Correspondence

For each Office location listed below, only the particular type of correspondence indicated may be transmitted to the specific facsimile number at that Office location. All other types of facsimile transmitted correspondence must be sent to the Central FAX number (571-273-8300).

1. PCT Operations and PCT Legal Administration

Correspondence subsequent to filing in an international application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Examining Authority:

Papers in international applications: 571-273-3201 facsimile number<sup>ii</sup>

Response to Decisions on Petition: 571-273-0459 facsimile number

Note: An international application for patent or a copy of the international application and the basic national fee necessary to enter the national stage, as specified in 37 CFR 1.495(b), may NOT be submitted by facsimile. See 37 CFR 1.6(d)(3) (referencing 37 CFR 1.8(a)(2)(i)(D) and (F)). Subsequent correspondence may be transmitted by facsimile in an application before the U.S. Receiving Office, the U.S. International Searching Authority, or the U.S. International Examining Authority, but it will NOT receive the benefit of any certificate of transmission (or mailing). See 37 CFR 1.8(a)(2)(i)(E). Correspondence during national stage, subsequent to entry, are handled in the same manner as a U.S. national application.

The PCT Help Desk: 571-273-0419 facsimile number

571-272-4300 telephone number

2. Office of Patent Publication

Payment of an issue fee and any required publication fee by authorization to charge a deposit account or credit card, and drawings: 571-273-2885 facsimile number<sup>ii</sup>

Note: Although submission of drawings by facsimile may reduce the quality of the drawings, the Office will generally print the drawings as received.

Office of Patent Publication telephone numbers to check on receipt of payment:

571-272-4200<sup>ii</sup> or 1-888-786-0101

3. Office of Pre-Grant Publication

Petitions for express abandonment to avoid publication under 37 CFR 1.138(c), and Requests for express abandonment under 37 CFR 1.138: 703-305-8568 facsimile number

Pre-Grant Publication Division telephone number for questions relating to the publication of patent applications: 703-605-4283. Questions may also be directed by e-mail to pgpub@uspto.gov.

**4. Electronic Business Center (EBC)**

Requests for Customer Number Data Change (PTO/SB/124), and Requests for a Customer Number (PTO/SB/125): 571-273-0177 facsimile number

Note: The EBC may also be reached by e-mail at: ebc@uspto.gov.

EBC telephone number for customer service and assistance: 866-217-9197

**5. Assignment Branch**

Assignments or other documents affecting title: 571-273-0140 facsimile number <sup>ii</sup>  
Note: Customers may submit documents directly into the automated Patent and Trademark Assignment System and receive the resulting recordation notice at their facsimile machine. (Assignment documents submitted through the Electronic Patent Assignment System also permits the recordation notice to be faxed to customers.) Credit card payments to record assignment documents are now accepted, and use of the Credit Card form (PTO-2038) is required for the credit card information to be separated from the assignment records. Only documents with an identified patent application or patent number, a single cover sheet to record a single type of transaction, and the fee paid by an authorization to charge a USPTO deposit account or credit card may be submitted via facsimile. Please refer to the USPTO Web Site, at <http://www.uspto.gov/web/offices/ac/ido/opr/ptasfax.pdf> for more information regarding the submission of assignment documents via facsimile.

Assignment Branch telephone number for assistance: 571-272-3350 <sup>ii</sup>

**6. Central Reexamination Unit (CRU)**

*Ex parte* and *Inter partes* reexamination correspondence, except for the initial request:

571-273-9900 facsimile number <sup>ii</sup> Note: Correspondence related to reexamination proceedings will be separately scanned in the CRU.

CRU telephone number for customer service and inquiries: 571-272-7705

**7. Board of Patent Appeals and Interferences**

Correspondence related to pending interferences permitted to be transmitted by facsimile (only where expressly authorized, see 37 CFR 1.6(d)(9)): 571-273-0042 facsimile number

Note: Correspondence should not be transmitted to this number if an interference has not yet been declared.

**8. Office of the General Counsel**

Correspondence permitted to be transmitted to the Office of General Counsel: 571-273-0099 facsimile number

**9. Office of the Solicitor**

Correspondence permitted to be transmitted by facsimile to the Office of the Solicitor: 571-273-0373 facsimile number

**10. Licensing and Review**

Petitions for a foreign filing license pursuant to 37 CFR 5.12(b), including a petition for a foreign filing license where there is no corresponding U.S. application (37 CFR 5.13):

571-273-0185 facsimile number

Note: Correspondence to be filed in a patent application subject to a secrecy order under 37 CFR Sec. 5.1 through 5.5 and directly related to the secrecy order content of the application may NOT be transmitted via facsimile. See 37 CFR Sec. 1.6(d)(6).

**11. Office of Petitions**

Petitions to Withdraw from Issue: 571-273-0025 facsimile number

Note: All other types of petitions must be directed to the Central FAX Number (571-273-8300). Petitions to Withdraw from Issue sent to the Central FAX Number should be marked "Special Processing Submission".

**12. Office of the Enrollment and Discipline**

Correspondence permitted to be transmitted to the Office of Enrollment and Discipline: 571-273-0074 facsimile number

**13. Office of Finance**

Refund requests, deposit account inquiries, and maintenance fee payments: 571-273-6500 facsimile number

Office of Finance telephone number for customer service and inquiries: 571-272-6500

**14. Office of Public Records**

Requests for certified copies of Office records may be transmitted to: 571-273-3250  
facsimile number.

The Office of Public Records' Document Services Division telephone number for  
customer service and inquiries: 571-272-3150.

**FOR FURTHER INFORMATION CONTACT:**

Inquiries concerning receipt and status of specific correspondence should continue to be directed to the appropriate office that considers the correspondence on the merits. Please allow sufficient time for the correspondence to be scanned into the IFW system or to be forwarded to the appropriate location before contacting the Office. Applicants may electronically verify the receipt and status of the correspondence using the private side of the Patent Application Information Retrieval (PAIR) system and are strongly encouraged to make use of this PAIR capability. Information related to both the private and public sides of PAIR can be found on the Office website at

<http://www.uspto.gov/ebc/pair/help.html>.

Questions related to PAIR or the Office's facsimile system should be directed to the Electronic Business Center at 866-217-9197 (toll-free) or 571-272-4100.

9/19/2005 /S/

***Conclusion***

**7. United States Postal Service Interruption and Emergency under 35 U.S.C.21(a)**

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Katrina in Louisiana, Mississippi, Alabama, and Florida on August 28, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21((a) and 37 CFR 1.10(i) and 2.195(e). Postal services in Louisiana, Mississippi, Alabama, and Florida have been suspended intermittently since Sunday, August 28, 2005, due to Hurricane Katrina. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Katrina, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

**8. United States Postal Service Interruption and Emergency under 35 U.S.C. 21(a)**

The United States Patent and Trademark Office (USPTO) is designating the interruption in service of the United States Postal Service (USPS) in the areas affected by Hurricane Rita in Louisiana and Texas on September 23, 2005, as a postal service interruption and an emergency within the meaning of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) and 2.195(e).

Postal services in Louisiana and Texas have been suspended intermittently since Friday, September 23, 2005, due to Hurricane Rita. To determine whether a post office has been closed or postal services have been suspended in a particular area due to Hurricane Rita, contact the post office directly or visit the USPS's Web site at: <http://www.usps.gov>.

As soon as the USPTO receives further information from the USPS as to when postal services in the affected areas will be resumed, the USPTO will post updated information regarding this situation on the USPTO Web site (<http://www.uspto.gov>) and in the Official Gazette.

**Patent-Related Correspondence**

37 CFR 1.10(i) addresses interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for patent-related correspondence. Correspondence covered by 37 CFR 1.10 that would have been filed with the USPTO under 37 CFR 1.10 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the

termination of the USPS service interruption with a petition in accordance with 37 CFR 1.10(i) using "Express Mail" service in accordance with 37 CFR 1.10.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) apply only to postal interruptions and emergencies. The provisions of 35 U.S.C. § 21(a) and 37 CFR 1.10(i) do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

37 CFR 1.10(i) provides that any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director may petition the Director to consider such correspondence as filed on a particular date in the Office. 37 CFR 1.10(i) specifically provides that: any person attempting to file correspondence under this section that was unable to be deposited with the USPS due to an interruption or emergency in "Express Mail" service which has been so designated by the Director, may petition the Director to consider such correspondence as filed on a particular date in the Office, provided that:

(1) the petition is filed in a manner designated by the Director promptly after the person becomes aware of the designated interruption or emergency in "Express Mail" service;

(2) the petition includes the original correspondence or a copy of the original correspondence; and

(3) the petition includes a statement which establishes, to the satisfaction of the Director, that the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and that the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Patent-related inquiries concerning this notice may be directed to Eugenia Jones, Senior Legal Advisor in the Office of Patent Legal Administration, at (571) 272-7704 or at PatentPractice@uspto.gov.

#### Trademark-Related Correspondence

37 CFR 2.195(e) and 2.198 address interruptions or emergencies in USPS "Express Mail Post Office to Addressee" service that are designated by the Director for trademark-related correspondence. Correspondence covered by 37 CFR 2.198 that would have been filed with the USPTO under 37 CFR 2.198 during this USPS service interruption, but which was not filed due to the USPS service interruption, should be filed promptly after the termination of the USPS service interruption with a petition in accordance with 37 CFR 2.146 and 2.198.

The provisions of 35 U.S.C. § 21(a) and 37 CFR 2.195(e) apply only to postal interruptions and emergencies. These provisions do not provide for the granting of a filing date to correspondence as of the date on which it would have been filed but for other exigencies, such as the unavailability of an office or building other than a USPS

facility. These provisions apply only if the post office was closed or "Express Mail" service suspended in the affected areas on the specified date due to Hurricane Rita.

Under 37 CFR 2.195(e) and 2.198, any person attempting to file correspondence by "Express Mail Post Office to Addressee" service that was unable to be deposited with the USPS due to the interruption or emergency in "Express Mail" service in the areas designated in this notice may petition the Director to consider such correspondence as filed on a particular date in the Office. The petition must:

- (1) Be filed promptly after the ending of the designated interruption or emergency in "Express Mail" service;
- (2) Include the original correspondence or a copy of the original correspondence; and
- (3) Include a statement which establishes, to the satisfaction of the Director, that (1) the correspondence would have been deposited with the USPS but for the designated interruption or emergency in "Express Mail" service, and (2) the correspondence or copy of the correspondence is the original correspondence or a true copy of the correspondence originally attempted to be deposited with the USPS on the requested filing date.

Please note that under 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1), the Express Mail procedures cannot be used for the following types of correspondence: applications for registration of marks; amendments to allege use under 15 U.S.C. § 1051(c); statements of use under 15 U.S.C. § 1051(d); requests for extension of time to file a statement of use under 15 U.S.C. § 1051(d); affidavits of continued use under 15 U.S.C. § 1058; renewal applications under 15 U.S.C. § 1059; requests to change or correct addresses; combined filings under 15 U.S.C. §§ 1058 and 1059; combined affidavits or declarations under 15 U.S.C. §§ 1058 and 1065; responses to notices of irregularity under 37 CFR 7.14; requests for transformation under 37 CFR 7.31; notices of opposition to applications based on 15 U.S.C. § 1141f(a); and requests for extensions of time to oppose applications based on 15 U.S.C. § 1141f(a).

Moreover, 37 CFR 2.197 (certificate of mailing procedure) does not provide for according a filing date as of the date of deposit with the USPS. Therefore, it would be inappropriate to file a petition seeking a filing date as of the date of deposit of the types of correspondence listed in 37 CFR 2.101(b)(2), 2.102(a)(2) and 2.198(a)(1) as Express Mail, or as of the date on a certificate of mailing under 37 CFR 2.197.

Trademark-related inquiries concerning this notice may be directed to Mary Hannon, Office of the Deputy Commissioner for Trademark Examination Policy, at (571) 272-9569.

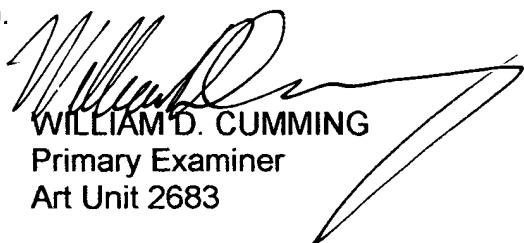
Date: 9/27/05 /S/

9. If applicants wish to request for an interview, an "*Applicant Initiated Interview Request*" form (PTOL-413A) should be submitted to the examiner prior to the interview in order to permit the examiner to prepare in advance for the interview and to focus on the issues to be discussed. This form should identify the participants of the interview, the proposed date of the interview, whether the interview will be personal, telephonic, or video conference, and should include a brief description of the issues to be discussed. A copy of the completed "*Applicant Initiated Interview Request*" form should be attached to the Interview Summary form, PTOL-413 at the completion of the interview and a copy should be given to applicant or applicant's representative.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to WILLIAM D. CUMMING whose telephone number is 571-272-7861. The examiner can normally be reached on Monday-Thursday 11am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



WILLIAM D. CUMMING  
Primary Examiner  
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